

**12587. Misbranding of oats. U. S. v. 300 Sacks of Oats, More or Less. Consent decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. No. 18666. I. S. No. 18433-v. S. No. C-4381.)**

On May 7, 1924, the United States attorney for the Northern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 300 sacks of oats remaining in the original unbroken packages at Greenwood, Miss., alleging that the article had been shipped by the George J. Hamner Grain Co., Memphis, Tenn., April 29, 1924, and transported from the State of Tennessee into the State of Mississippi, and charging misbranding in violation of the food and drugs act as amended. The article was invoiced, "White Oats."

Misbranding of the article was alleged in substance in the libel for the reason that it was offered for sale under the distinctive name of oats, when it was in fact an admixture of oats and foreign material, including wild oats, barley skimmings, rye, white [wheat] chaff, and dirt, and had been bleached with sulfur dioxide, which was not declared. Misbranding was alleged for the further reason that the article was in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On July 5, 1924, the George J. Hamner Grain Co., Memphis, Tenn., having appeared as claimant for the property and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$500, in conformity with section 10 of the act, conditioned in part that it be properly labeled.

HOWARD M. GORE, *Secretary of Agriculture.*

**12588. Adulteration and misbranding of ice cream. U. S. v. Sidebottom Pure Ice Cream & Dairy Co., a Corporation. Plea of guilty. Fine and costs, \$125. (F. & D. No. 16028. I. S. Nos. 23106-t, 23107-t.)**

On April 20, 1922, the United States attorney for the Middle District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Sidebottom Pure Ice Cream & Dairy Co., a corporation, Nashville, Tenn., alleging shipment by said company, in violation of the food and drugs act, on or about October 19, 1921, from the State of Tennessee into the State of Kentucky, of quantities of ice cream which was adulterated and misbranded. The article was labeled in part: (Tag) "Sidebottom Pure Ice Cream and Dairy Co., \* \* \* Nashville, Tenn."; (package) "Ice Cream \* \* \* an absolutely sterile ice cream reaching a standard of purity and velvet smoothness impossible for any other manufacturer in Nashville to obtain."

Analyses by the Bureau of Chemistry of this department of samples from each of the two consignments showed that the samples contained approximately 2.69 per cent and 6.17 per cent, respectively, of milk fat.

Adulteration of the article was alleged in substance in the information for the reason that a product containing approximately 2.69 per cent or 6.17 per cent, as the case might be, of butterfat, which was much less than the amount required to comply with recognized trade practice, had been substituted wholly or in part for ice cream, which the said article purported to be. Adulteration was alleged for the further reason that butterfat, a valuable constituent of the article, had been wholly or in part abstracted.

Misbranding was alleged for the reason that the statement, to wit, "Pure Ice Cream," borne on the tags attached to the packages containing the article, and the statements, to wit, "Ice Cream \* \* \* an absolutely sterile ice cream reaching a standard of purity and velvet smoothness impossible for any other manufacturer in Nashville to obtain," borne on the package label, were false and misleading in that the said statements represented that the article was ice cream, to wit, an article containing a sufficient percentage of butterfat necessary to comply with recognized trade practice, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it was ice cream, to wit, an article containing a sufficient percentage of butterfat necessary to comply with recognized trade practice, whereas it was not ice cream, to wit, an article containing the said recognized amount of butterfat, but was a product containing a deficient amount of butterfat, to wit, 2.69 per cent or 6.17 per cent of butterfat, as the case might be.

which was much less than the amount required to comply with recognized trade practice in ice cream. Misbranding was alleged for the further reason that the article was a mixture containing a deficient amount of butterfat, prepared in imitation of and offered for sale under the distinctive name of another article, to wit, ice cream.

On April 17, 1924, the defendant entered a plea of guilty to the information, and the court imposed a fine and costs in the amount of \$125.

HOWARD M. GORE, *Secretary of Agriculture.*

**12589. Adulteration and misbranding of flour. U. S. v. 620 Sacks of Flour. Product released under bond, to be reconditioned.** (F. & D. No. 18514. I. S. No. 11659-v. S. No. W-1499.)

On March 27, 1924, the United States attorney for the District of Arizona, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 620 sacks of flour at Tucson, Ariz., alleging that the article had been shipped by the El Paso Grain & Milling Co., El Paso, Texas, on or about March 11, 1924, and transported from the State of Texas into the State of Arizona, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: "Globe Mills Flour Globe Bakers Globe Mills El Paso, \* \* \* Matured-Bleached \* \* \* 98 Lbs. Baker's Globe Flour."

Adulteration of the article was alleged in the libel for the reason that a substance, water, had been mixed and packed with and substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the statement "98 pounds," appearing in the labeling, was false and misleading and deceived and misled the purchaser, and for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On April 4, 1924, the El Paso Grain & Milling Co., El Paso, Texas, having appeared as claimant for the property and the product having been theretofore reduced to a moisture content of 13½ per cent or less and the sacks having been filled to their stated weight of 98 pounds, it was ordered by the court that the product be released to the said claimant and that the bond theretofore executed be exonerated, and it was further ordered that the costs be taxed against the claimant.

HOWARD M. GORE, *Secretary of Agriculture.*

**12590. Adulteration and misbranding of canned corn. U. S. v. 450 Cases of Canned Corn. Decree entered, ordering product released under bond, to be reconditioned.** (F. & D. No. 18253. I. S. No. 6481-v. S. No. C-4246.)

On December 29, 1923, the United States attorney for the Western District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel and thereafter an amended libel praying the seizure and condemnation of 450 cases of canned corn at Stamps, Ark., alleging that the article had been shipped by H. M. Crites & Co., Circleville, Ohio, on or about September 23, 1923, and transported from the State of Ohio into the State of Arkansas, and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: (Can) "Crites Best Brand Sugar Corn \* \* \* H. M. Crites & Co. \* \* \* Circleville Ohio."

Adulteration of the article was alleged in the libel as amended for the reason that the contents of a very large percentage of the said cans consisted wholly or in part of a filthy, decomposed, and putrid substance.

Misbranding was alleged in substance for the reason that the labeling of the said article was false and misleading in that it was so labeled as to mislead and deceive the purchaser into the belief that it was a product fit for food, whereas a large percentage of the product was not fit for food but was decomposed and putrid.

On May 26, 1924, M. H. Crites & Co., Circleville, Ohio, having appeared as claimant for the property, judgment of the court was entered, finding that a portion of the product was unfit for food, and it was ordered by the court that the product be released to the said claimant upon the execution of a bond in the sum of \$2,000, in conformity with section 10 of the act, conditioned in part that it be reconditioned, and it was further ordered that the costs be paid by the said claimant.

HOWARD M. GORE, *Secretary of Agriculture.*